

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE
OFFERED BY MR. MARKEY**

At the end of the bill, insert the following new section:

1 SEC. 4. DESIGN BASIS THREAT.

2 (a) AMENDMENT.—Chapter 14 of the Atomic Energy
3 Act of 1954 (42 U.S.C. 2201–2210b) is amended by add-
4 ing at the end the following new section:

5 “SEC. 170C. DESIGN BASIS THREAT.—

6 “a. The Nuclear Regulatory Commission, not later
7 than 60 days after the date of the enactment of this sec-
8 tion, after consultation with the Secretary of Defense, the
9 Director of Central Intelligence, the Director of the Fed-
10 eral Bureau of Investigation, the National Security Advi-
11 sor, the Director of Homeland Security (or any successor
12 official), and any other appropriate Federal, State, or non-
13 governmental entities, shall commence a rulemaking to
14 consider changes to the design basis threat for facilities
15 licensed by the Commission under this Act. Within 1 year
16 after the date of the enactment of this section, the Com-
17 mission shall issue a final rule revising the design basis
18 threat and associated regulations.

1 “b. Regulations issued under this section shall take
2 into account—

3 “(1) the events of September 11, 2001;

4 “(2) the potential for attack on facilities by
5 multiple coordinated teams totaling in the aggregate
6 at least 20 individuals;

7 “(3) the potential for assistance in an attack
8 from several persons employed at the facility;

9 “(4) the potential for suicide attacks;

10 “(5) water-based and air-based threats;

11 “(6) the potential use of explosive devices of
12 considerable size and other modern weaponry;

13 “(7) the potential for attacks by persons with
14 a sophisticated knowledge of facility operations;

15 “(8) the threat of fires, especially fires of long
16 duration; and

17 “(9) protection of spent fuel storage pools and
18 dry cask storage, including after reactor closure.

19 “c. Regulations issued under this section shall estab-
20 lish requirements for licensees relating to construction, op-
21 eration, security procedures, and emergency response, and
22 shall require conforming amendments to existing licenses.

23 “d. Regulations issued under this section shall re-
24 quire armed escorts for all spent fuel shipments, capable
25 of repelling attacks by a large number of attackers work-

1 ing as several coordinated teams and using sophisticated
2 techniques and equipment.

3 “e. (1) Regulations issued under this section shall in-
4 clude the establishment of an Operational Safeguards Re-
5 sponse Evaluation program, whose Director shall report
6 directly to the Nuclear Regulatory Commission, which
7 shall ensure that the operational safeguards response of
8 each facility described in paragraph (2) is tested at least
9 once every 2 years to determine whether the design basis
10 threat factors identified in regulations issued under this
11 section have been adequately addressed.

12 “(2) Facilities subject to testing under paragraph (1)
13 include commercial nuclear powerplants, research reac-
14 tors, spent fuel storage facilities and associated support
15 facilities and equipment, and any other licensed facility
16 the Nuclear Regulatory Commission considers appro-
17 priate.

18 “f. Regulations issued under this section shall be re-
19 viewed and revised as appropriate at least once every 5
20 years.”.

21 (b) TABLE OF SECTIONS AMENDMENT.—The table of
22 sections for chapter 14 of the Atomic Energy Act of 1954
23 is amended by adding at the end the following new item:

“Sec. 170C. Design basis threat.”.